

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF CHIROPRACTIC EXAMINERS

MINUTES OF THE MEETING
APRIL 12TH, 2021

These are DRAFT minutes prepared by the staff of the Division of Corporations, Business and Professional Licensing. These minutes have not been reviewed or approved by the Board.

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Chiropractic Examiners was held via Videoconference on April 29th, 2021.

Item 1 Call to Order/Roll

The meeting was called to order by Board Chairman Dr. Brian Larson, at 10:10 a.m. Members present were:

Roll Call

Board Members present, constituting a quorum:

Brian Larson, Doctor of Chiropractic
Tim Kanady, Doctor of Chiropractic
James Morris, Doctor of Chiropractic
John Lloyd, Doctor of Chiropractic
Public Member, Vacant

Division Staff present were:

Reid Bowman, Occupational Licensing Examiner
Cynthia Spencer, Licensing Supervisor
Sara Chambers, Division Director (*via videoconference at 10:18 a.m.*)

Present from the Public:

Sheri Ryan, Chief Operating Officer, Alaska Chiropractic Society

Item 2 Review/Approve Agenda

Dr. Larson directed the board to review the agenda and make any additions, revisions and suggestions. Licensing Supervisor Spencer suggested the addition of section C in Agenda Item 13- Administrative Business for discussion online jurisprudence examinations.

On a motion duly made by Tim Kanady, seconded by James Morris, and approved unanimously by a roll call, it was RESOLVED To ADD item C. to item 13 for discussion of the jurisprudence exam.

On a motion duly made by James Morris, seconded by Tim Kanady, and approved unanimously by a roll call, it was RESOLVED To APPROVE the agenda as written.

Item 3 Ethics Report

Dr. Larson stated he is the Designated Ethics Supervisor (DES) for the board and reviewed the circumstances when a report is required to be submitted. Dr. Larson inquired about the value of gifts that required a report.

Director Chambers stated \$150.00 was the gift reporting limit.

Dr. Larson conducted a roll call of board members asking for anything to report. There were no violations or potential violations to report.

Item 4 Review/Approve Meeting Minutes

The board reviewed the meeting minutes from the February 12, 2021 board meeting. There were no objections or additions.

On a motion duly made by James Morris, seconded by Tim Kanady, and approved by majority through roll call, it was RESOLVED to APPROVE the February 12th, 2021 meeting minutes as written.

Item 5 Board Business

A. Review Goals and Objectives:

Ms. Spencer asked if the Board would like this to be an ongoing agenda item. The board briefly discussed the question and determined it was valuable to have this as an ongoing agenda item.

This topic will also be discussed during the annual report-agenda item.

B. Chiropractic Response to Telemedicine:

The board discussed the ability of Chiropractors to participate in telemedicine services.

Mr. Bowman stated there were no barriers to such practice and outlined the registration process.

Dr. Larson asked about:

- The scope of practice allowed?
- Do the patients need to have access to the service provider?
- Does there need to be a network of providers available if contact is needed?
- Does the patient need to be in the state or can they be anywhere, and
- Does the provider need to be a chiropractic physician if they are coming from elsewhere?

Director Chambers stated anyone providing chiropractic services within the state of Alaska are required to be appropriately licensed and the physical location of the patient determines the jurisdiction for licensure. Director Chambers also stated the business would need to be on the telemedicine registry; the individual physician does not need to be on the registry.

Dr. Larson asked if House Bill (HB) 76 had any bearing on the discussion; Director Chambers stated the version which passed the Senate applied to Medical and Nursing boards but not to chiropractic practice.

Dr. Larson inquired about mechanisms to ensure outside telemedicine providers were licensed in Alaska. Director Chambers stated proper licensing was encouraged for providers by the inability to receive payment from insurers without documentation of licensure, and the complaint process would be

secondary verification. Director Chambers informed the board they have the ability amend regulations to set guidelines for telemedicine if needed. Director Chambers cautioned any guidelines would need to be careful not to unduly restrict the practice of someone who is licensed.

Dr. Larson asked Sheri Ryan, Alaska Chiropractic Society if they had received complaints or questions about telemedicine. Ms. Ryan stated there had been questions about telemedicine but no complaints concerning outside chiropractors. Ms. Ryan went on to state, the main inquiries had been about whether Alaska licensed chiropractors could see patients outside the state. The board discussed situations in which an Alaska based patient out of state could be seen by an Alaskan practitioner. Director Chambers stated the standard remained that a practitioner should be licensed in the jurisdiction where the patient is currently physically located.

C. Leading Legislative Bill Support:

This item was delayed in favor of discussing section D.

D. Temporary Permits for Out of State Chiropractors to assist in Crises/Natural Disasters:

The board discussed previous regulatory efforts to allow out of state chiropractors to practice in Alaska during declared municipal, borough or state emergencies without the 45-day process currently in place for licensure.

Director Chambers stated several other boards had adopted emergency courtesy licenses last fall; she stated a template was available that had been approved by the Department of Law that provided flexibility to the profession and the board to issues limited scope licenses and offered to provide that to the board.

The board discussed past courtesy license applications and reasons behind their denials, including having adequate existing chiropractic coverage. Director Chambers stated those applications clearly did not meet the standards described in 12 AAC 16.205 however; Director Chambers cautioned the board that while crafting new regulations to consider if someone is qualified to hold a license, the board could not restrict their practice based upon other available providers. Director Chambers stated precedent in federal court decisions reflected this. The board chose to table the discussion until the next meeting and requested to include language similar to other state boards emergency regulations and request the attendance of a regulation specialist.

Dr. Kanady stated he would follow up with Mr. Bowman to prepare this task for the next meeting.

E. Review of Statutory Recognition of Chiropractic Physicians as Physicians by Other Professions in Alaska:

Dr. Larson informed the board the Nursing Board currently recognizes Chiropractic Physicians as Physicians in their regulations, however the Medical Board does not. Dr. Larson asked the board if they would consider drafting legislation to affect the Medical Board to recognize chiropractors as physicians.

Director Chambers stated current statutes define Chiropractic Physicians in AS 08.20 and Medical Physicians under AS 08.64. Director Chambers stated if the board would like to be considered Physicians under AS 08.64 then chiropractors would be subject to following the regulations and scope of practice required under that statute and would probably be absorbed into the Medical board.

Dr. Larson asked the board if they felt it was necessary to pursue this topic further. Director Chambers stated the direction being pursued to expand statutes regarding scope of practice is the correct one to achieve the Board's goals, and the alternative would be to disband the Board and fall under the purview of the Medical Board. The board discussed and agreed it was preferable to be regulated under their own statutes.

Dr. Larson suggested a preferable option would be to attempt to clean up Chiropractic statutes and regulations to reflect the nomenclature Chiropractic Physician instead of Chiropractor.

Discussion was tabled on this topic to advance the agenda to accept public comments as publicly scheduled.

Item 8 Public Comment

No members of the public were in attendance.

Item 6 Investigative Report

Investigator Jasmin Bautista presented the investigative report for the period of January 29, 2021 to April 21, 2021. Investigator Bautista reported six open cases and none closed over that period; Investigator Bautista stated she would be presenting cases.

On a motion duly made by Tim Kanady, seconded by John Lloyd, and approved by majority through roll call, it was RESOLVED to ENTER Executive Session under the authority of AS 44.62.310(C) for the purpose of discussing (2) subjects that tend to prejudice the reputation and character of any person, provided the person may request a public discussion. Staff to remain in session.

The Board entered executive session at 11:33 a.m. and returned from executive session at 11:57 a.m. Ms. Spencer conducted a roll call vote; all board members present.

On a motion duly made by James Morris, seconded by Tim Kanady, and approved unanimously by a roll call, it was RESOLVED to ACCEPT the civil fine for case number 2021-000025.

On a motion duly made by James Morris, seconded by John Lloyd, and approved by a majority through roll call, it was RESOLVED to ACCEPT the summary suspension as written for case number 2020-000499. Dr. Larson recused himself from this vote.

Recess The board recessed for lunch at 12:03 p.m.; and reconvened at 12:59 p.m. Dr. Larson conducted a roll call vote; all board members present.

Item 9 Alaska Chiropractic Society (ACS) Report

Ms. Ryan reported she had emailed the ACS report to Mr. Bowman. Mr. Bowman stated he would forward the report to the board. Ms. Ryan gave an update upon The Future of Chiropractic Care Strategic Plan stating phase two has concluded, phase one's report had been issued and is linked in the ACS report. Ms. Ryan informed the board that workgroups had been assembled nationwide to complete the strategic plan; phase three will be starting soon and there will be opportunities for any chiropractor throughout the nation to provide input.

Ms. Ryan also reported the Federation of Chiropractic Licensing Boards (FCLB) is having their annual meeting on Saturday, May 1st; a candidate for the presidency asked for the Alaska representative to call her. Dr. Larson stated he would call her, and contact information would be forwarded by Mr. Bowman.

Ms. Ryan reported that Community Care Network rollout had been delayed until July 1st to give providers a chance to complete the credentialing process; details are available on the ACS website. Ms. Ryan informed the board that the Cures Act is a hot topic which relates to patient record sharing, similar in some ways to HIPAA. Ms. Ryan stated all practitioners should review the ACS website for more information

Ms. Ryan informed the board that H.R. 2654, the Medicare Inclusion Bill had been reintroduced in the US House of Representatives; ACS met with Representative Don Young, April 5th, 2021 in preparation. Ms. Ryan stated Representative Young is in full support of co-sponsorship of the bill.

Ms. Ryan stated ACS advocated to have chiropractic physicians included in the language of Senate Bill 65; "Chiropractor" was added in the Senate bill. Ms. Ryan informed the board ACS is currently working with Senator Kiehl to change the terminology from "chiropractor" to "chiropractic physician".

Dr. Larson stated there was no need for ACS assistance to the board. Sheri Ryan stated ACS has one seat open on the medical services review committee, and a possible opening on the workers compensation board.

Item 11 Budget Report/Division Updates

A. FY21 3rd Quarter Fiscal Review:

Director Sara Chambers delivered the third quarter fiscal update reflecting an overall ending surplus of \$48,093.

The board noted licensing fee revenues appeared to be slightly lower than in the previous two cycles. The board discussed reviewing renewal numbers to determine if a significant portion of licensees opted not to continue Alaska licensure. Ms. Ryan with ACS stated association membership was holding steady; however, she had noticed many chiropractors retiring.

Item 5 Board Business

C. Leading Legislative Bill Support:

Director Chambers reviewed the division's annual Board Member Legislative Guidance, including strategies for the board to register support, opposition, or comment on legislation. Director Chambers reiterated that boards must vote on positions and board members should take care to clarify that they do not speak for the board when testifying as individuals. Dr Larson provided an update on the status of the board's legislative priorities. Dr. Larson reported he had met with several legislators to garner support and was awaiting confirmation of a sponsor. Director Chambers suggested board members forward the document they had previously adopted to their own senators and representatives; Director Chambers also suggested that ACS finalize their position to lend support, if they are so inclined. Director Chambers stated securing a sponsor now will provide ample time for amendments and edits during the interim.

Recess The board recessed at 2:18 p.m. and reconvened at 2:30 p.m. Dr. Larson conducted a roll call vote; all board members present.

Item 12 Regulation Projects

A. Regulation of Chiropractic Assistants:

Dr. Larson reported the legislative auditor raised a question about the board's lack of licensure or registration for chiropractic assistants, interns, and preceptors. Dr. Larson stated the auditor's assumption was that that board should be doing more to ensure qualifications were being met. Director Chambers reviewed the history of the legislation from 2016 authorizing the use of these personnel. Director Chambers stated the Alaska State Legislature specifically and intentionally did not give the board power to license these areas as the sponsor did not want to incur the fiscal note or added bureaucracy.

Dr. Larson asked the board if they would like to seek expansion to regulate assistants, interns and preceptors so they could enhance their regulation of these practices.

The board discussed and generally agreed that the system was working as intended and no changes were needed. The board agreed that professionals were successful in ensuring their assistive personnel met certification requirements, and the division has not been receiving complaints. Director Chambers suggested the system was similar to licensee delegation to medical assistants or dental assistants. Dr. Lloyd added that licensees incurred the burden of discipline if something went awry, and licensees are keen to avoid such infractions.

B. Application Deadlines for Incoming Chiropractors:

The board discussed briefly and agreed there was no need to change the current application deadline of 45 days.

C. In-person CE Requirement for Both Incoming Initial Applications and Renewals:

At this time due to convergence between correspondence items and this agenda item, both were discussed simultaneously. Several pieces of board correspondence requested updates on COVID-19 practice expectations. The board clarified that their current guidance, posted on the division's COVID-19 web page, pointed to CDC and state guidelines and did not specify any additional requirements.

Director Chambers confirmed that HB 76, had been transmitted to the governor for signature today, included immunity for businesses and licensees who are in substantial compliance with federal, state, and municipal guidelines. Director Chambers also stated that the bill did not include any additional restrictions that would affect licensees or chiropractic practice.

The board confirmed that they were content with their current published guidance going forward.

The board also received requests to renew their COVID-era flexibility on continuing education (CE) requirements of 12 AAC 16.030 (initial applications by examination) and 12 AAC 16.033 (applications for renewal). The board discussed the logistical challenges to in-person coursework and the merits of virtual training; since COVID-19 positive cases were declining and vaccinations were increasing, the board anticipated more in-person offerings would be available.

Ms. Ryan stated that ACS hoped to hold an in-person meeting this fall, which would include CE offerings.

After discussion, Dr. Larson took a straw poll of the board, which was unanimous in determining that certain types of chiropractic CE were far more valuable and educational when done in an in person setting; therefore, the board opted to continue requiring no more than 16 hours of education be completed remotely. The board stated the planned to discuss this issue at a future meeting to ensure they were maintaining awareness of recent developments.

Director Chambers offered to inform the board within a week of any options available through HB 76 and pursuant disaster or emergency declarations. Dr. Larson directed staff to communicate with persons concerned about this requirement to let them know the topic would be reconsidered at their next meeting.

Item 5 Board Business

F. Elections:

The board discussed the need to elect officers for Vice Chair and Secretary of the board. Dr. Larson asked for nominations.

i. Vice Chair

Dr. Larson nominated Dr. Kanady for Vice Chair.

On a motion duly made by Tim Kanady, seconded by James Morris, and approved by a majority through roll call, it was RESOLVED to APPOINT Dr. John Lloyd as board vice chair.

ii. Secretary

Dr. Lloyd nominated Dr. Morris for secretary.

On a motion duly made by John Lloyd, seconded by Tim Kanady, and approved by a majority through roll call, it was RESOLVED to APPOINT Dr. James Morris as board secretary for two years.

G. Utilization Review Committee (URC) Appointments:

Dr. Larson requested suggestions on a process to fill the recently defunct four-person utilization review committee. Licensing Examiner Reid Bowman reviewed the regulatory requirements of committee members. Director Chambers suggested that board members seek nominees who would be willing and then vote on a slate of candidates at their next meeting. Dr. Larson asked Mr. Bowman to email licensees about the opportunity and he suggested that interested persons should send a letter of interest with their qualifications to the office within ten days of receipt of the email.

H. Annual Report:

Dr. Larson reviewed the annual report process and thanked Dr. Morris for drafting the 2020 version. Dr. Morris offered to draft the 2021 report, Dr. Kanady offered to collaborate. Dr. Morris and Dr. Kanady agreed to submit a draft to the board via staff by May 20 for consideration at a special one-hour teleconference.

Item 13 Administrative Business

A. Set Next Meeting Date/Board Travel:

- Tuesday, May 25 at 9:00 a.m.: One-hour teleconference to review and adopt the annual report
- Friday, July 30 at 9:00 a.m.: Regular teleconference
- Friday, October 29 at 9:00 a.m.: Regular teleconference

B. Task List:

This item was not addressed

C. NBCE Exam Online:

Ms. Spencer stated the online exam was ready to go, and more information could be forthcoming next week.

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Item 14 Adjourn

The meeting was adjourned at 4:35 p.m.

Respectfully submitted:

Reid Bowman, Licensing Examiner

Approved:

Dr. Brian Larson, Chairperson
Board of Chiropractic Examiners

Date: _____